

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

STEVEN ALLEN McGEE,

Movant,

v.

CASE NO. 1:08-cv-499

UNITED STATES OF AMERICA,

HON. ROBERT HOLMES BELL

Respondent.

_____/

MEMORANDUM OPINION AND ORDER

This matter is before the Court on Movant Steven Allen McGee's motion for order to show cause that the District Court had subject matter jurisdiction over forfeited property. (Dkt. No. 22.) Movant filed this motion as part of his § 2255 petition to vacate, correct or set aside his sentence, in which Movant raised a variety of additional challenges to the forfeiture allegations to which Movant pleaded guilty on July 30, 2001. Challenges to a forfeiture penalty are not cognizable in a § 2255 proceeding, which is available only to a "prisoner in custody" that is "claiming the right to be released." 28 U.S.C. § 2255(a); *United States v. Mays*, 67 F. App'x 868, 869 (6th Cir. 2003); *United States v. Watroba*, 56 F.3d 28, 29 (6th Cir. 1995); *Rodriguez v. United States*, No. 95-2322, 1997 WL 770636, at *1 (1st Cir. Dec. 12, 1997); *Soldier v. United States*, No. 3:09-cv-1, 2009 WL 455830, at *2 (D.N.D. Feb. 23, 2009).

Accordingly,

IT IS HEREBY ORDERED that Movant's motion for order to show cause that the District Court had subject matter jurisdiction over forfeited property (Dkt. No. 22) is **DENIED**.

Dated: January 21, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE